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BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

In the Matter of Consideration of Regulations Regarding the Designation of Eligible Telecommunications Carriers	)))	**Docket No. 2006-37-C**

COMMENTS OF HARGRAY WIRELESS, LLC

Hargray Wireless, LLC ("Hargray"), by its counsel, hereby submits the following post-hearing comments in the above-captioned proceeding concerning the Commission's draft ETC designation rules ("Draft Rule.

I. INTRODUCTION

Hargray has previously stated that the Commission's Draft Rule promotes the FCC's objective of establishing a uniform set of criteria resulting in a predictable universal service support mechanism for both incumbents and competitors. Hargray therefore offered only very limited suggestions for clarification or modification. By contrast, the changes proposed at the hearing by South Carolina Telephone Coalition ("SCTC") represent a radical transformation, including poorly drafted provisions that are anticompetitive, unlawful, unnecessary, and, in many cases, impossible for any incumbent or competitive ETC to meet. Accordingly, Hargray urges the Commission to reject SCTC's eleventh-hour proposals, and adopt rules consistent with those proposed and supported by the other parties in this proceeding.

II. DISCUSSION

In the *ETC Report and Order,* the FCC encouraged states to require carriers "to meet the same conditions and to conduct the same public interest analysis outlined in this Report and

Order."[1] Hargray has previously noted that the draft ETC rules were generally consistent with the FCC's guidelines and would further the goals of the 1996 Act, and made some suggested modifications.[2] On March 26, 2007, the Commission requested comment on a version of the draft ETC designation rules that had minor proposed revisions to the previous draft. In response to that notice, Hargray offered limited proposed modifications and noted that generally the proposed rules are consistent with universal service objectives, including competitive neutrality.

At the eleventh hour, and without giving other parties and ORS a fair chance to address them before the hearing, SCTC has dropped in substantial changes that favor only SCTC's members, raising the real possibility that no carrier would want ETC status in South Carolina under those conditions. As shown below, there are numerous and substantive reasons to reject SCTC's anticompetitive proposal.

A. SCTC's Proposed Changes to the Service Quality Improvement Plan Requirement Are Unreasonable.

1. The Draft Rule Appropriately Limits the Service Quality Improvement Plan to Two Years.

The Commission should reject SCTC's proposed change from a two-year reporting horizon to a five-year requirement. Given that wireless carriers in rural areas have very young networks, rapid growth means that business and construction plans change rapidly, sometimes quarter to quarter. The order in which a carrier constructs facilities and the areas within which consumers are demanding service often shifts in response to many market conditions. The amount of support a competitive ETC receives also fluctuates, sometimes significantly.

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[1] *Federal-State Joint Board on Universal Service, Report and Order,* 20 FCC Rcd 6371, 6396 (2005) ("*ETC Report and Order*").

[2] *See* Comments of Hargray Wireless, LLC (filed Feb. 21, 2007) at p. 2.

Moreover, the FCC is expected to change the way support is provided to all carriers within the next several months, which may significantly change the level of support flowing to competitors.[3] Thus, any plan beyond 24 months is little more than a guess that is most certain to be amended.

Rather than impose a network improvement reporting requirement with an unrealistic five-year horizon, the Commission should follow the lead of other states that have considered the same issue by adopting a one- or two-year reporting requirement. In Washington, for example, after a rulemaking with extensive public comment on multiple drafts released over a span of several months, the Utilities and Transportation Commission ("UTC") adopted rules last year that require ETC applicants to provide a two-year network improvement plan.[4] In annual certification filings each year, all ETCs in Washington will be required to report on their planned use of support during the following 12 months.[5] Missouri, after a rulemaking proceeding with several rounds of public comment and an administrative hearing, also adopted a two-year network improvement plan requirement for ETC applicants, as did the Oregon Public Utilities Commission, the Iowa Utilities Board, and the Kansas Corporation Commission last year[6] and

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[3] *See Public Notice, Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support,* FCC 04J-2 (rel. Aug. 16, 2004).

[4] Designation and Certification of Eligible Telecommunications Carriers, Order Amending and Adopting Rules Permanently, Docket No. UT-053021 (June 27, 2006). The two-year plan for new applicants is set forth in WAC 480-123-030(1)(d).

[5] WAC 480-123-080.

[6] Staff Investigation to Establish Requirements for Initial Designation and Recertification of Telecommunications Carriers Eligible to Receive Federal Universal Service Support, Docket No. UM 1217, Order (Or. PUC, June 13, 2006) ("Oregon ETC Order") at p. 5; In Re: Eligibility, Certification, and Reporting Requirements for Eligible Telecommunications Carriers [199 IAC 39], Docket No. RMU-06-, Order Adopting Amendments and Scheduling Workshop (Ia. Util. Bd., Oct. 6, 2006) ("Iowa ETC Order") at p. 17; In the Matter of a General Investigation Addressing Requirements for Designation of Eligible Telecommunications Carriers, Docket No. 06-GIMT-446-GIT, Order Adopting Requirements for Designation of Eligible Telecommunications Carriers (Ks. Corp. Comm'n, Oct. 2, 2006) ("Kansas ETC Order") at p. 17 (recon. granted in part, denied in part, on unrelated grounds, Nov. 20, 2006). The rule adopted by the Oregon PUC requires new ETC applicants to file a five-year service quality improvement

the Minnesota Public Utilities Commission in 2005. A one or two-year plan makes sense in view of the fact that the Commission must recertify ETCs each year, giving the Commission ample opportunity to annually review shorter term plans and results from the prior year.

Hargray submits that the Commission would benefit from the experience of other states that have held hearings and solicited comment from staff, industry participants, and consumer advocates in considering new or modified ETC designation and certification requirements. We believe this Commission should follow these examples and require new ETC applicants to provide a two-year plan showing proposed network improvements with the use of high-cost support. In annual reports, all incumbent and competitive ETCs should be required to report the projected amount of support for the following 12 months and the network expenditures proposed during that period with the use of those funds.

2. The Commission Should Reject the Unlawful Suggestion that Complete Build-out Must Be Achieved Within Five (or Two) Years.

Hargray has previously expressed its support for Draft Rule subsection C(a)(1)(B), which would require an ETC applicant to submit a plan demonstrating how support will be used for upgrades and improvements to its network over its first two years as an ETC. The key for this Commission is to ensure that the CETC is using whatever support is available in a lawful fashion, and to build out its network to the greatest extent possible.

What SCTC proposes is entirely contrary to the 1996 Telecom Act and the FCC's rules. Despite the fact that wireline carriers took decades to construct networks, all the while receiving support, SCTC would have a newcomer finish building out its network within five years.[7]

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plan, but only requires detailed information for the first two years.

[7] See proposed SCTC changes to subsection C(a)(6).

Any requirement that any ETC must build out its network ubiquitously within its first five years as an ETC would be unlawful because the operative federal statute does not require *any* ETC, including an ILEC, to construct facilities throughout 100% of its ETC service area. The federal statute requires all ETCs to fulfill their obligation as an ETC in a service area by providing service "***either using its own facilities or a combination of its own facilities and resale of another carrier's services.***"[8] The fact that a carrier could serve some customers with resale precludes any requirement that it build out to 100% of its service area.

Although we have seen ILEC groups raise this issue elsewhere, such a requirement does not exist in the FCC's rules, or in any other state. Put simply, the federal statute precludes an interpretation sought by SCTC. The applicable requirement is to "offer and advertise" service immediately, and it provides all ETCs the ability to choose a combination of facilities and resale to meet that obligation. Any requirement to construct within a specific period of time would violate the statute's provision allowing resale.

SCTC's proposal is also anticompetitive in that a CETC is limited in the amount of support it can receive. A CETC must first build facilities and *then* get a customer before it can get support.[9] As a result, a CETC can only build out as fast as available support allows. If support is sufficient to complete a build out within five years, then it would be done, however if it is not, a CETC cannot simply construct the facilities and ask the government to guarantee a return, as the ILEC mechanism does.

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[8] *See* 47 U.S.C. Section 214(e)(1). An ETC does not receive support for lines served entirely through resale. Accordingly, an ETC serving a customer solely via resale has a strong incentive to upgrade or expand its network so that it can transition that customer to facilities-based service as quickly as possible.

[9] This is contrary to SCTC witness Brown's misstatements of how wireless ETCs receive support. Since CETCs only get support when they serve a customer with their facilities, it is impossible to get any support unless you first build a cell site and then convince a customer to subscribe to your service.

SCTC's proposed amendment fails to acknowledge that ILECs themselves were not required to provide facilities-based service throughout an entire geographic area within five years. Indeed, after many years of subsidization, ILECs are still allowed liberal exemptions from the obligation to serve consumers in all instances. As an example, we have attached selected pages from the tariff of SCTC member Chesnee Telephone Company, which states that "The Company's obligation to furnish service is dependent on its ability to obtain and maintain suitable rights and facilities, without unreasonable expense, for the provision of such service."[10] In many cases, an ILEC may condition the provision of service on the payment of construction charges by the requesting customer.[11] Clearly, a competitive ETC cannot be required to provide facilities-based throughout its ETC service area within five years when ILECs are, even today, not required to do so despite having received decades of support.

Competitive ETCs, like ILECs, are required to provide service to consumers upon reasonable request. The Commission should follow the lead of Missouri, Oregon, Washington, and other states that have rejected such proposals and instead require all ETCs to provide updated plans each year on a rolling basis. In this manner, the Commission will have the means to determine whether an ETC is properly using federal support to expand and operate its network to provide the supported services to consumers in rural, high-cost areas.

This requirement, which SCTC knows to be a non-starter for CETCs, must be rejected.

3. ETCs Should Be Permitted to Report at the County Level.

In its comments submitted in February and June, Hargray explained that the use of a

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[10] Chesnee Telephone Company, Inc., General Exchange Tariff, South Carolina ("Chesnee Tariff"), Section 4.1.1.

[11] *See* Chesnee Tariff at Sections 15.1 *et seq.*

wireline-specific geographic area for reporting wireless infrastructure improvements would not be competitively neutral, because wireless carriers do not use wire centers when planning the type and location of facilities to be constructed or upgraded for the provision of wireless service. Wire center-specific reporting is also unnecessary because competitive ETCs do not report lines and receive support based on wire center, but by ILEC study area or, in limited instances, cost zone. In the draft rule submitted for comment in March, the language was changed to permit reporting on a cell site-by-cell site basis.

While this represented a more competitively neutral approach, Hargray noted that network improvements may include expenditures other than cell site construction or modification. Accordingly, Hargray recommended that instead of using wire centers, the Commission permit wireless ETCs to report on a county-by-county basis. Hargray emphasized that wireless carriers are better equipped to deal with county boundaries because FCC-licensed areas generally follow county boundaries. Hargray also noted that the Nebraska Public Service Commission recently proposed a rule that would allow both incumbent LECs and wireless ETCs to choose either wire centers or counties as the geographic basis for reporting ETC expenditures.[12]

SCTC's proposal to strike the draft language permitting reporting on a cell site-by-cell site basis is not objectionable. However, the language should be not simply stricken, but replaced with Hargray's suggested language permitting reporting on a county-by-county basis.

[12] In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to establish guidelines for the purpose of certifying the use of federal universal service support, Order Seeking Comment, Application No. NUSF-25 (Neb. PSC Feb. 26, 2007).

B. SCTC's Proposed Local Rate Plan Requirement Should be Rejected in Favor of the FCC's Total-Service Approach.

SCTC proposes language requiring CETCs to offer a "stand-alone, unlimited basic local usage plan at a monthly rate comparable to the incumbent LEC rate of approximately $14.35 per month for residential customers." Such a provision would constitute unlawful regulation of wireless rates and should therefore be rejected. Under federal law, states cannot regulate rates of CMRS carriers, even if the CMRS carrier is an ETC.[13] Rate regulation has been interpreted broadly by the courts[14] and by the FCC.[15] Additionally, the *TOPUC* decision by the Fifth Circuit confirmed that Section 254(f) of the Act—which allows a state to "adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service"—cannot be read to supersede the preemptive effect of Section 332(c)(3).[16] In sum, Congress made no "universal service exception" to its preemption of CMRS rate regulation.

Hargray submits that this is why the FCC decided to only require CETCs to have one rate

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[13] *See* 47 U.S.C. Section 332(c)(3); *Petition of the State Independent Alliance and the Independent Telecommunications Group for a Declaratory Ruling that the Basic Universal Service Offering Provided by Western Wireless in Kansas is Subject to Regulation as Local Exchange Service*, 17 FCC Rcd 14802, 14820, para. 33 (2002) ("*State Independent Alliance*") ("Kansas is precluded and preempted from imposing rate and entry regulations on Western Wireless' BUS offering, but Kansas may regulate other terms and conditions, and Kansas may impose universal service regulations that are not inconsistent with section 332(c)(3)(A), other provisions of the Act, and the Commission's regulations."), *pet. for recon. and clarification dismissed,* FCC 07-116 (June 26, 2007).

[14] *See Cellco Partnership v. Hatch,* 431 F.3d 1077 (8th Cir. 2005)(holding Minnesota "Wireless Consumer Protection" Act preempted by 47 U.S.C. § 332(c)(3) as rate regulation); *Bastien v. AT&T Wireless Service, Inc.,* 205 F.3d 983, 989 (7th Cir. 2000). *See also AT&T v. Central Office Telephone, Inc.,* 524 U.S. 214, 223 (1998) ("Rates. . . do not exist in isolation. They have meaning only when one knows the services to which they are attached. Any claim for excessive rates can be couched as a claim for inadequate services and vice versa. If 'discrimination in charges' does not include non-price features, then the carrier could defeat the broad purpose of the statute by the simple expedient of providing an additional benefit at no additional charge . . . An unreasonable 'discrimination in charges,' that is, can come in the form of a lower price for an equivalent service or in the form of an enhanced service for an equivalent price.") (internal quotations omitted).

[15] *See Southwestern Bell Mobile System, Inc., Memorandum Opinion and Order,* 14 FCC Rcd 19898, 19907, para. 20 (1999) ("[W]e find that the term 'rates charged' in Section 332(c)(3)(A) may include both rate levels and rate structures for CMRS and that the states are precluded from regulating either of these.") (emphasis in original).

[16] *See TOPUC, supra,* 183 F.3d at 431.

plan that is comparable with that offered by ILECs. In so doing, the FCC did not mandate unlimited local usage or any particular rate structure, but left it open for each state to determine comparability on a case-by-case basis, taking into account local calling areas, price, and other factors.[17]

To be clear, the FCC did not define comparability to mean a CETC must create a rate plan to match the ILEC's service offering. Rather, it stated:

> We believe the [state] Commission should review an ETC applicant's local usage plans on a case-by-case basis. For example, an ETC applicant may offer a local calling plan that has a different calling area than the local exchange area provided by the LECs in the same region, or the applicant may propose a local calling plan that offers a specified number of free minutes of service within the local service area. We also can envision circumstances in which an ETC is offering an unlimited calling plan that bundles local minutes with long distance minutes. The applicant may also plan to provide unlimited free calls to government, social service, health facilities, educational institutions, and emergency numbers.[18]

SCTC's proposed unlawful rate regulation should be rejected in favor of the FCC's case-by-case, total-service analysis discussed above, which has been adopted by the FCC.[19]

C. SCTC's Proposed Changes to the Rule Governing the Public Interest Analysis.

SCTC's proposed requirement that "the operating costs submitted in C(a)(1)(B)10 above must exceed projected universal service receipts" must be rejected because the manner in which all ETCs receive federal support, under this federal program, is a matter of federal law.[20] The

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[17] *See FCC ETC Order, supra,* 20 FCC Rcd at 6385, para. 33.

[18] *FCC ETC Order, supra,* 20 FCC Rcd at 6385 (footnotes omitted).

[19] Once again, witness Brown misstated applicable law in asserting that the Commission has authority to regulate CMRS carrier rates in the course of regulating universal service. Mr. Brown holds himself out as an expert and has participated in literally dozens of state universal service proceedings. His views accurately express what the SCTC wants the law to be, not what it actually is.

[20] 47 C.F.R. Section 54.307.

federal statute gives states explicit authority to determine whether carriers should be designated as ETCs.[21] The FCC's rules make clear that states are also responsible for ensuring the support is being used lawfully and for recertifying carriers each year.[22]

Proposed changes in how a carrier receives federal high-cost support are properly placed before the agency that has jurisdiction—in this case the FCC. Once again, unhappy with the federal rules, SCTC attempts to insert a requirement that does not exist at the federal level, or in any other state across the country.[23] Moreover, read literally, we doubt an ILEC could meet such a standard, were the FCC inclined to adopt appropriate audit criteria to examine related party transactions and whether investments are truly necessary. This anticompetitive proposal must be rejected.

SCTC's proposal to require a separate public interest analysis "for each rural telephone company study area included in the area for which the applicant seeks ETC designation" would be unprecedented and should be rejected. The FCC does not perform separate public interest analyses by ILEC study area, and Hargray is not aware of any state that does so. A state designates a CETC for an ETC service area that is, in almost all cases, much different than the service area of underlying ILECs. The only component of the public interest analysis that is ILEC-dependent is the determination of whether the CETC will engage in "creamskimming" by receiving high levels of support in low-cost areas. The reason ILECs argue this in almost every state is that they wish to establish small regimes, within which a CETC would have to segregate its operations, construction plans, and most egregiously, its universal service support

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[21] 47 U.S.C. Section 214.

[22] 47 C.F.R. Sections 54.313, 54.314.

[23] Witness Brown provided no citation to either the FCC or any other state having adopted SCTC's proposal.

investments. This kind of mischief has been unanimously rejected and this Commission should do so again here.[24]

Hargray has no objection to SCTC's proposal to modify the rule so that the public interest analysis weighs the public costs of the designation against the public benefits created by the designation. However, SCTC's choice of language, which refers to the cost of "supporting an additional network," is inappropriate and does not reflect the way the federal high-cost mechanism works. The federal high-cost fund does not provide support to multiple redundant networks. That is, a CETC cannot simply report the costs of constructing and operating its network and cover its expenses in the form of high-cost support. Rather, a CETC receives per-line support only based on the customers it acquires and keeps. If it loses a customer, it loses the corresponding per-line support. By contrast, an ILEC retains its full amount of support even if it loses customers. The Commission should reject the use of the words "supporting an additional network" in its analysis of applications for ETC status and focus on the benefits to consumers, which is what universal service is all about.

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[24] Yet again, witness Brown provides the Commission with no citation to any FCC rule or state law that has adopted SCTC's proposed change. That proposal only represents what SCTC wishes the law were and that is not a valid basis for this Commission to act.

III. CONCLUSION

SCTC's proposed eleventh-hour changes are much less about whether consumers will see any benefits as a result of their inclusion in the rules than they are about erecting barriers to competitive entry. Given that most of their suggestions have been rejected so many times in so many other fora, Hargray is surprised to see them being reconstituted here.

While SCTC's suggestions can best be characterized as a nuisance, if adopted they are certain to cause competitive carriers to seriously consider not entering South Carolina as CETCs. Given the ability of wireless carriers in particular to bring so many benefits to rural consumers, and given how much the states' consumers contribute to the federal universal service fund, it would be great for SCTC members but simply terrible for South Carolina's consumers, to allow these last-minute, self-serving suggestions to impede the ability of the state to access federal high-cost support for its citizens.

For all of the reasons set forth above, Hargray urges the Commission to adopt its rules as proposed, which have been endorsed by the vast majority of parties participating in this docket.

Respectfully submitted,

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Dated: July 13, 2007

GENERAL RULES AND REGULATIONS

4.1 GENERAL APPLICATION

4.1.1 The rules and regulations set out in this tariff apply to the local exchange services and associated facilities furnished by the Company within its exchanges listed in Section 2 of this tariff.

4.1.2 The rules and regulations in this section govern the furnishing of local exchange service to customers. These rules and regulations are in addition to the rules and regulations contained in other sections of this General Exchange Tariff.

4.1.3 Complete tariffs containing all rates for local exchange service will be kept at all times in the Company's local business office where they will be available for public inspection during regular business hours. Copies may be obtained at reproduction cost.

4.1.4 The rules and regulations specified herein may be modified by the State of South Carolina or the Commission. The Company will comply with any changes that take precedence over this General Exchange Tariff, unless otherwise established by the courts, or until changes are made with the Commission.

4.1.5 Failure on the part of any customer to observe these rules and regulations of this tariff gives the Company the right to cancel all contracts and discontinue the furnishing of service.

4.1.6 This tariff cancels and supersedes all other Local Exchange tariffs of the Company issued and effective prior to the effective date shown on the individual sheets of this tariff.

4.2 ESTABLISHING SERVICE

4.2.1 Availability of Facilities

A. The Company's obligation to furnish service is dependent on its ability to obtain and maintain suitable rights and facilities, without unreasonable expense, for the provision of such service.

B. The rates and charges quoted in this tariff provide for the furnishing of service and facilities where suitable facilities are available or when the construction of the necessary facilities does not involve excessive costs.

C. When excessive costs are involved for the construction of facilities, charges for such construction will be determined in accordance with the regulations set forth in Section 15 of this tariff, except as otherwise specified.

GENERAL RULES AND REGULATIONS

4.2 ESTABLISHING SERVICE (Cont'd)

4.2.1 Availability of Facilities (Cont'd)

D. The Company shall not be liable for failure to furnish service unless the purchase price and costs expended by the Company in acquiring such special or private rights of way by purchase or condemnation is paid or guaranteed to the Company by the customer. The rights of way referred to here are only those rights of way leading from the Company's distribution facilities to the premises of the customer.

E. When service and facilities are provided in part by the Company and in part by other connecting companies, the regulations of the Company apply to that portion of the service and facilities furnished by the Company.

4.2.2 Application for Service

A. Applications for service will be in writing and shall constitute a contract either when accepted by authorized employees or agents of the Company or upon establishment of service.

B. Requests or orders by the customer for additional services or facilities must be made in person. The Company may require a new application and contract if the Company deems necessary.

C. An applicant who has no account with the Company, or whose financial responsibility is not readily ascertainable, may be required to make a deposit or pay other nonrecurring charges, or construction charges that may be applicable.

CHARGES APPLICABLE UNDER SPECIAL CONDITIONS

15.1 SPECIAL CHARGES FOR TEMPORARY, SPECULATIVE OR UNUSUAL CONSTRUCTION

15.1.1 General

A. Facilities of the Company will be extended in accordance with the provisions of this Section. Special Charges may be applied in addition to the usual service connection charges and monthly rates. Special Charges apply primarily when unusual investment or expense will be incurred by the Company, such as when:

1. Conditions require, or the customer requests the provision of special equipment, unusual or non-standard methods of plant construction, installation or maintenance or a move of Company facilities;

2. The customer's location requires the use of costly private right-of-way; or

3. The proposed service is of a temporary nature and the plant to be used for such service would not all be of value to the Company in the general conduct of its business upon discontinuance of that service.

B. The Company will retain title to all plant constructed, as specified within this Tariff, whether provided wholly or partially at a customer's expense.

C. The customer is required to pay all Construction Charges made by another telephone Company providing facilities connecting with the facilities of the Company.

D. Applicants may be required to make nonrefundable advance payments to cover all or a portion of the excess Construction Charges for Exchange Service or Special Service Arrangements when in the opinion of the Company there is evidence of credit risk. A cash deposit may also be required as discussed under Section 4 of this Tariff.

E. A waiver of construction charges for temporary structures may be obtained when the customer agrees to construct a full time residence of a permanent nature within eighteen (18) months.

CHARGES APPLICABLE UNDER SPECIAL CONDITIONS

15.1 SPECIAL CHARGES FOR TEMPORARY, SPECULATIVE OR UNUSUAL CONSTRUCTION (Cont'd)

15.1.1 General (Cont'd)

F. When attachments are made to poles of other companies, instead of providing construction for which the customer would be charged under the provisions of this Section, the customer shall pay the Company's cost for such attachments.

G. Line extensions and special service arrangements are further subject to the regulations specified in the Tariffs of this Company.

15.1.2 Application of Special Charges

A. Temporary Construction – The customer shall be charged the estimated cost of construction and removal of the plant which would not be of value to the Company, less the estimated net recovery value of the material used. The Company may require the customer to pay the cost of construction plus the cost of removal, less salvage, for temporary construction performed in advance of permanent construction or to provide temporary service.

CHARGES APPLICABLE UNDER SPECIAL CONDITIONS

15.2 LINE EXTENSIONS

15.2.1 Facilities to be Provided Without Construction Charge

A. The Company will furnish adequate telephone service to the largest practicable number of customers within its certificated service area without requiring a Construction Charge.

B. The Company will furnish service to all applicants for service for which the Rural Utilities Service (RUS) construction funds have been provided, without payment by such applicants of any extra charge as a contribution to the cost of construction of facilities to provide such service.

C. The Line Extension Charges specified in this Tariff shall not apply to service requests of a remote commercial operation (e.g, request for Telemetering Service at a remote pipeline location) where it is determined by the Company that there will be no residential growth potential in the foreseeable future. Any and all costs of this nature shall be borne by the customer.

CHARGES APPLICABLE UNDER SPECIAL CONDITIONS

15.2 LINE EXTENSIONS (Cont'd)

15.2.2 Construction Charges for Facilities in Excess of Allowances

A. When the Company has extended service to the number of customers specified in its most current loan agreement with the RUS, a new applicant for service may be required to pay a contribution to the cost of construction. The Company will extend its distributing plant to applicants in areas where facilities are not available under the following conditions and limitations:

1. The applicant will be required to pay the cost of construction of the required line if this cost is in excess of five (5) times the estimated annual Local Exchange Service revenues for the applicant.

2. Applicants may be required to make advance payments to cover all or a portion of the excess Construction Charges for Exchange Service or Special Service Arrangements when in the Company's judgment there is evidence of credit risk. A cash deposit may also be required as specified in Section 4 of this Tariff.

3. The Construction Charge for line extensions is apportioned equally among all applicants of a group.

4. All costs will be computed on a current basis. Material cost will be computed on the basis of the extension of one circuit to the applicant.

5. The type of cable plant extension will be determined by the Company as dictated by current and future circumstances, situations and forecasts, and the cost will be estimated accordingly.

6. When required, the Construction Charge assessed an applicant or applicants for facilities shall be paid in advance, based on estimated charges. An adjustment to the actual charge will be made upon completion of construction.

7. Payments for line construction are not refundable and no credit will be allowed for future installation on line extensions constructed under the above regulations.

8. Where the customer or applicant is required to pay all or a portion of the construction cost to extend a line, the materials and equipment furnished and installed by the Company shall be totally owned and maintained by the Company.

CHARGES APPLICABLE UNDER SPECIAL CONDITIONS

15.2 LINE EXTENSIONS (Cont'd)

15.2.3 Poles on Private Property

Poles on private property to be used in serving an individual customer will be furnished by the Company at no cost to the customer except in cases where the customer is required to pay for constructing the line extension. Poles requested by the customer in excess of those deemed necessary by the Company will be charged to the customer at the installed cost. Ownership and maintenance of such poles is vested in the Company.

15.2.4 Provisions of Private Right-of-Way

The Company's obligation to provide service is solely dependent upon its ability to secure, retain and maintain suitable rights-of-way without unreasonable expense. When conditions require, applicants shall provide, without expense to the Company, private right-of-way as needed. Any and all private right-of-way or permit requirements, and any and all associated costs, will be the responsibility of the applicant, and must be furnished before a plant extension project begins.

CHARGES APPLICABLE UNDER SPECIAL CONDITIONS

15.2 LINE EXTENSIONS (Cont'd)

15.2.5 Temporary Service or Service to a Moveable Premises

A. Where the proposed service is of a temporary nature and the plant would have no value to the Company upon discontinuance of the service, the applicant shall be charged the estimated cost of construction and removal of the plant or portion of the plant which would not be of value to the Company, less the estimated immediate net recovery value of the material used.

B. Where plant construction is required to provide any service or facility of a temporary nature or where it is necessary to place temporary construction in advance of permanent construction in order to meet the customer's requirements, the Company may require the applicant to pay the non-recoverable costs of the temporary construction or to contract for service beyond the initial period, or both.

C. When telephone service is provided to movable premises by means of aerial plant, the customer shall provide a clearance pole if the Company considers it necessary. The clearance pole must comply with the Company's specifications. The customer shall place, own and maintain the pole. However, if the customer elects and the Company agrees, the Company will place, own and maintain the pole and bill the customer the cost of placing the pole.

D. Where plant construction is required to provide any service or facility to a movable premises, and it is necessary to place temporary construction in advance of permanent construction in order to meet the customer's requirements, the Company may require the applicant to pay the nonrecoverable costs of the temporary construction or to contract for service beyond the initial period, or both.

CHARGES APPLICABLE UNDER SPECIAL CONDITIONS

15.3 SPECIAL CONSTRUCTION

15.3.1 Private Property

A. An average amount of entrance and distribution facilities will be furnished by the Company provided the facilities are of the standard type normally furnished for the particular location or kind of service.

B. The applicant may be required to pay the costs over and above those applicable for a normal installation:

If additional entrance or distribution facilities are required; if the conditions are such as to require special facilities, maintenance or methods of construction; if the installation is for a temporary or semi-permanent purpose; or if for any other reason the construction costs are excessive as compared with the revenue to be derived.

C. The customer will provide the Company upon request and without charge written permission for the placing of the Company's facilities on the property.

CHARGES APPLICABLE UNDER SPECIAL CONDITIONS

15.3 SPECIAL CONSTRUCTION (Cont'd)

15.3.2 Service to Residential and Commercial Developments

A. The Construction Charges, allowances and provisions previously specified in this Section contemplate the extension of facilities into areas of normal growth and development. Where facilities are to be extended into new areas of residential or commercial real estate development which, in the Company's opinion, are of a promotional or speculative nature, the Company may require an advance deposit equal to all or a portion of the costs of such construction, depending on the circumstances in each case. This advance deposit will be payable prior to the start of construction.

1. The Company and the developer may enter into a contractual agreement that provides for the periodic refund of portions of the deposit as customers in the development receive telephone service, and other terms of the contract are met. The contract will specify the estimated number of telephone customers expected to receive service within the area and the time required to complete the project (not to exceed five years). The contract will provide that the construction charge be computed to reflect regular Tariff allowances, design changes made by the developer, damage to telephone facilities by persons other than Company employees, or agents or unusual construction requirements. Periodic refunds to the developer will be adjusted accordingly.

2. No refund will be made of any remaining balance of the construction advance after five years from the date the extension of facilities for the developer was completed.

3. Unless included in the construction advance made by the developer, extensions from the facilities installed for the developer will be made in accordance with the provisions of the Company's extension policies and any required fees, deposits or prepayments shall be paid by the applicant requesting service to such lot or tract.

B. The applicant for telephone service to a development is required to provide the Company, at his/her own expense, the necessary easements for installation and maintenance of telephone facilities, clear the ground where facilities are to be installed according to Company specifications and request installation of telephone facilities at an appropriate time during construction of the project to avoid unnecessary costs to the Company.

CHARGES APPLICABLE UNDER SPECIAL CONDITIONS

15.3 SPECIAL CONSTRUCTION (Cont'd)

15.3.3 Underground Service Connections

A. When customers request underground service connections instead of aerial drop wires which would ordinarily be used to reach the customer's premises, or when aerial facilities are used to provide service or channels to a customer and the customer subsequently requests that such facilities be placed underground, the following regulations apply:

1. Where cable is to be placed in conduit, the underground conduit shall be constructed and maintained by or at the expense of the customer. The underground conduit shall be constructed in accordance with plans and specifications furnished by the Company;

2. The duct or ducts required in the underground conduit by the Company to furnish service shall be reserved for its exclusive use;

3. Where cable is laid in a trench at the customer's request, the trench shall be constructed and back filled under the Company's supervision and by or at the customer's expense;

4. Cable installed in conduit will be maintained and replaced at the expense of the Company where the conduit has been inspected in place by the Company and approved, but repairs or replacements of cable in the conduit or trench made necessary by damage caused by the customer or his representatives will be made only at the customer's expense;

CHARGES APPLICABLE UNDER SPECIAL CONDITIONS

15.3 SPECIAL CONSTRUCTION (Cont'd)

15.3.3 Underground Service Connections (Cont'd)

A. (Cont'd)

5. Where facilities are changed from aerial to buried or underground, in addition to the above, the customer is charged the cost of dismantling and removing the aerial facilities;

6. Except as otherwise provided herein, the regulations in this Tariff contemplate that the type of construction required to provide the quantity and class of service involved will be determined by the Company. The applicant may be required to pay additional costs involved where a different type of construction than that proposed by the Company is desired; and

7. When a special type of construction other than those covered preceding is desired by the customer or when the individual requirements of a particular situation make the construction unusually expensive, the customer is required to bear the excess cost of such construction. Any special maintenance expense that may from time to time occur will be borne by the customer except that maintenance of buried service wire, including associated trenching where required, will be at the expense of the Company.

15.4 SPECIAL SERVICE ARRANGEMENTS

15.4.1 General

A. If the requirements of customers cannot be met with the regularly offered service arrangements, Special Service Arrangements may be furnished by the Company, where practical, at charges equivalent to the estimated cost of such equipment and arrangements provided it is not detrimental to any of the services furnished under the Company's Tariffs.

B. If any one type of Special Service Arrangement is subscribed to by more than fifteen (15) customers, the Company may file for approval of the service as a general offering in the appropriate Tariff.

15.4.2 Computation of Rates and Charges

A. Rates for Special Service Arrangements are equivalent to the estimated costs of furnishing the Special Service Arrangement.

B. Estimated cost consists of an estimate of the total cost to the Company in providing the Special Service Arrangement including:

1. Cost of maintenance;

2. Cost of operation;

3. Depreciation on the estimated installed cost of any facilities used to provide the Special Service Arrangement based on the anticipated useful service life of the facilities with an appropriate allowance for the estimated net salvage;

4. General administration expenses, including taxes on the basis of average charges for these items;

CHARGES APPLICABLE UNDER SPECIAL CONDITIONS

15.4 SPECIAL SERVICE ARRANGEMENTS (Cont'd)

15.4.2 Computation of Rates and Charges (Cont'd)

B. (Cont'd)

5. Any other item of expense associated with the particular Special Service Arrangement; and

6. An amount, computed on the estimated cost installed of the facilities used to provide the Special Service Arrangement, for return on investment.

C. Estimated installed cost mentioned above includes cost of equipment and materials provided or used plus the estimated cost of installing, including engineering, labor, supervision, transportation, rights-of-way, and other items which are chargeable to the capital accounts.

D. Special Service Arrangement rates are subject to review and revision conditioned upon changing costs.

E. At such time as a Special Service Arrangement becomes a Tariff offering, the Tariff rate or rates will apply from the date of Tariff approval.

F. The following rate treatments may be used in connection with charges for Special Service Arrangements.

1. Monthly rental and termination agreement with or without an Installation Charge.

2. Monthly rental with or without an Installation Charge.

3. Installation Charge only.

CERTIFICATE OF SERVICE

I, Donna L. Brown, hereby certify that on this 13th day of July 2007, copies of the foregoing, **COMMENTS OF HARGRAY WIRELESS LLC,** was placed in the United States mail, via first class, postage prepaid to:

C. Lessie Hammonds, Esq.
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Donna L. Brown